conclusion. In England, it would seem that the husband is allowed to withhold the amount of the tax on such payments as reimbursement for the tax on that portion of his general income. *Cf. Dalrymple* v. *Dalrymple*, 39 Scot. L. R. 348.

WAR — STATUS OF ALIEN — ENEMIES IN COURTS OF JUSTICE. — An action was brought by a German subject resident in Germany. Before the case reached the stage of judgment, war broke out between the United States and Germany. *Held*, the action will not be dismissed, but it will be suspended until peace shall be established. *Plettenberg* v. *Kalmon*, 241 Fed. 605 (District Court, Ga.), and *Stumpf* v. *Schreiber Brewing Co.*, 242 Fed. 80 (District Court, Western District of New York). See Notes, page 471.

WILLS — CONSTRUCTION — DISPOSITION OF ANNUITY ON DEATH OF ANNUITANT. — Testator left the residue of his estate to trustees to pay part of the income to A. annually, and the rest to B. Distribution of the principal was to be made when certain children reached the age of twenty-one years. A. died before the time for distribution. *Held*, that until time for distribution, income reserved for A. should be added each year to that paid to B. *Norman* v. *Prince*, 101 Atl. 126 (R. I.).

Upon the death of a beneficiary before the termination of a trust, his income is not paid to his estate, if there were no words of inheritance. *Weston* v. *Weston*, 125 Mass. 268; *Bates* v. *Barry*, 125 Mass. 83; *In re Taber* [1882], L. J. Ch. (N. S.) 727. But *cf. In re Follett*, 23 R. I. 409. And the questionable rule, that a lapsed residuary bequest shall not go to increase the rest of the residue, would seem to be outweighed by the strong policy in favor of the rule of construction against a partial intestacy. *Weston* v. *Weston*, *supra; In re Bensen*, 96 N. Y. 499. There is little authority as to whether the lapsed bequest should go to increase the principal of the trust fund, or be added to the income of the other beneficiaries. The latter would seem to be proper, unless there is an express provision to the contrary. *Vigor* v. *Harwood*, 12 Simons 172; *Wakefield* v. *Small*, 74 Me. 277; *Butler* v. *Butler*, 101 Atl. 115 (R. I.). *Cf. Angus* v. *Noble*, 73 Conn. 56, 46 Atl. 278. It seems that the result reached by the court effectuates the manifest intent of the testator.

For a discussion of another question in this case, see the February number of this REVIEW.

WILLS — EXECUTION — PUBLICATION BY INTERPRETER. — A statute provides that the testator shall "declare" that the instrument is his will to "two attesting witnesses," who must sign at his "request" (1910, Okla. Rev. L. § 8348). Testatrix was a Creek Indian who understood no English. Her declaration and request were interpreted to witnesses who understood no Creek. *Held*, that the will is invalid. *Hill* v. *Davis*, 167 Pac. 465 (Okla.).

Similar statutory requirements are not uncommon. See 1909, N. Y. Laws, c. 18, § 21. See also 1 JARMAN, WILLS, 6 Am. ed., 112, note 1. The case overrules one decided less than two years previously in the same court. *Pell* v. *Davis*, 155 Pac. 1132 (Okla.). The decision has the support of a *dictum*. See *Stein* v. *Wilzinski*, 4 Redf. (N. Y.) 441, 448. *Cf. Hunn* v. *Case*, 5 N. Y. Sur. 307; *Van Hooser* v. *Van Hooser*, *ibid.* 365. But there is little authority applicable to the question. Attestation has been defined as "the act of witnessing in its full legal import." See SCHOULER, WILLS, EXECUTORS AND ADMINISTRATORS, 5 ed., § 330. Where there can be a publication, it would seem to follow that there can be an attestation. A will has been held published by signs and sounds of a testator stricken with partial paralysis of the vocal organs. *Lane* v. *Lane*, 95 N. Y. 494. And where the testator has the power to understand what is said, the declaration clearly may be made by a third party. See *Heath* v. *Cole*, 15 Hun (N. Y.) 100, 103. See also *Robbins* v. *Robbins*, 50 N. J. Eq. 742, 744. In cases where there is a publication by an interpreter, it be-

comes merely a question of how strictly it is desirable to construe the statute. As a matter of language, publication and attestation could be found in such a case without distorting the words of the statute. The decision would seem to be unduly strict. *Cf.* PAGE, WILLS, § 226.

BOOK REVIEWS

THE LIFE OF JOHN MARSHALL. By Albert J. Beveridge. Volumes I (Frontiersman, Soldier, Lawmaker) and II (Politician, Diplomatist, Statesman). Houghton Mifflin Company. 1916. $8.00 *net*. pp. 506, 620.

This is the first installment of what promises to be the standard biography of John Marshall, and one of the best biographies of any American statesman. Senator Beveridge has undertaken a comprehensive task. These two goodly volumes are in a sense introductory; they cover only the preliminary activities of the great chief justice. Only at the end of volume two does the author induct his subject into the high office where he made his reputation.

It was well, in a definitive work, to give the full story of Marshall's life down to 1801; a life not only varied and interesting in itself, but necessary for a proper understanding of the judicial career. Furthermore, "in order to make clear the significance of Marshall's public activities, those epidodes in American history into which his life was woven have been briefly stated." But, in addition, there is one chapter each on Community Isolation, Popular Antagonism to Government, the Struggle for the Ratification of 1788 (outside Virginia), and the Influence of the French Revolution in America. Sound and very readable chapters they are; one is glad they were written, but one remembers what became of Trevelyan's "Life of Charles James Fox." The story of Marshall's career as chief justice, covering thirty-five of the most pregnant years of our national development, the decisions alone touching nearly every aspect of it, offers innumerable and interesting byways to the historical explorer. Senator Beveridge must stick to the main road henceforth, if he wishes to attain Carlyle's "indispensablest beauty in knowing how to get done."

No professional historian could surpass the thoroughness with which Senator Beveridge has treated Marshall's life to 1801. His task was unusually difficult, for there was no body of Marshall documents, published or unpublished, upon which to base the work. There was no short cut to it; the traces Marshall left behind him had to be sought out laboriously in the manuscript collection of the larger libraries, of private individuals, and in numerous Virginia attics. Almost every scrap of printed material on the federalist period has been carefully combed. The author has used every tool of the scientific method in history; and the result must be an agreeable surprise to his academic acquaintances, who for some years past have watched with interest and not a little amusement the senator's joyous gallop along the trail of the chief justice.

Unfortunately — and this is the one defect of the book — the author has adopted some of the vices of the doctoral dissertation, along with its virtues of thoroughness and impartiality. He has not resisted the temptation, so seductive to the Ph.D. aspirant, to make the footnotes an "omnium gatherum" for material accumulated at such trouble, that one cannot bring oneself to discard it; and there is too much piecing together of quotations. It has been done with great skill in the chapters on the Virginia Ratifying Convention, making the most dramatic and lively account of that body ever written. Elsewhere this method proves a poor substitute for a well-digested narrative in the author's own words. At times the pages are fairly spotty with quotes, leaders, italics, brackets, etc.:

"Here [Philadelphia]," wrote Jefferson, "*the unmonied farmer* . . . his cattle & corps [*sic*] are no more thought of than if they did not feed us. Script